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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/226,597 01/07/99 PIMENTEL

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EXAMINER

GABEL, G

ART UNIT

PAPER NUMBER

1641

12

DATE MAILED:

06/28/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trad marks

Office Action Summary

Application No.

09/226,597

Applicant(s)

PIMENTEL, JULIO

Examiner

Gailene R. Gabel

Art Unit

1641

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 May 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 18) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: _____.

DETAILED ACTION

Prosecution Reopened

1. Since this application is eligible for the transitional procedure of 37 CFR 1.129(a), and the fee set forth in 37 CFR 1.17(r) has been timely paid, the finality of the previous Office action is hereby withdrawn pursuant to 37 CFR 1.129(a). Applicant's amendment submission after final filed on 5/29/01 has been entered. Claim 1 has been amended. Currently, claims 1-9 are pending and under examination.

Rejection Withdrawn

2. In light of Applicant's amendment and argument, the rejection of claims 1-9 under 35 U.S.C. 103(a) as being unpatentable over Cook et al. (US 5,919,451) in view of Leclercq et al. (Reproduction, Nutrition, and Development, 1990), is hereby, withdrawn.

New Grounds of Rejection

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1-9 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable

Art Unit: 1641

one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Applicant's invention as recited in claim 1 is drawn to a method for inhibiting the amount of body weight gained after eating by feeding to an animal an effective amount of liposome-encapsulated immunoglobulin against lipase. The specification and working examples, however, are limited only to high fat content in the feed for a specific type of animal, in this case, the rat.

Page 4, Example 3 and page 5, Example 5 of the specification illustrates the effect of liposome-encapsulated immunoglobulin against lipase in rats by increasing fat content of the feed by 30% and observing the effect of liposome-encapsulated anti-lipase antibodies in weight gain of those supplemented with the antibody into their feed versus those whose feed was not supplemented by the antibody.

As to the effect of liposome-encapsulated immunoglobulin against lipase to animals, the direction, guidance, and working example in the specification is notably limited to inhibiting weight gain to the rat as a mammalian species. No working example was set forth for the claimed avian species and the rest of the mammalian species.

Further, as to the effect of liposome-encapsulated immunoglobulin against lipase in inhibiting weight gain in rats as a mammalian species, the direction, guidance, and working example in the specification is notably limited to feeding the rats an increase in the amount of fat content to the feed. No working example was set forth that would encompass the effect of liposome-encapsulated immunoglobulin against lipase in inhibiting weight gain in an animal on a strict protein, carbohydrate, or sugar diet. No

Art Unit: 1641

working example was set forth that would encompass the effect of liposome-encapsulated anti-lipase antibodies in inhibiting weight gain in an animal with increased intake in the amount of protein content, carbohydrate or starch content, and sugar content and these food groups are known to cause weight gain in relatively increased amounts.

In conclusion, the limited disclosure in the specification, therefore, does not enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the anti-lipase antibodies in inhibiting weight gain for any animal with invariably rich intake of protein, carbohydrate, and sugar diet.

4. Currently, claims 1-9 are free of prior art

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gail Gabel whose telephone number is (703) 305-0807. The examiner can normally be reached on Monday to Thursday from 7:00 AM to 4:30 PM. The examiner can also be reached on alternate Fridays from 7:00 AM to 3:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Long Le, can be reached on (703) 308-4027. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-4242.

Art Unit: 1641

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.

Gail Gabel
Patent Examiner
Group 1641

G. Gabel
6/27/01

Christopher L. Chin

CHRISTOPHER L. CHIN
PRIMARY EXAMINER
GROUP 1800 / 641